

IN THE ABSTRACT

Please see attached amendment.

RESPONSE

Applicants have amended claims 8-27. Specifically, claim one claim has been amended, and four claims have been canceled.

In response to the rejections over Delisle, applicant notes that, as claim 8 is now written, the application is not obvious because Delisle makes no mention of the treatment of *Strep. pneumoniae*, or *H. influenzae*. He is only targeting the treatment of bacteria causing tooth decay.

Additionally, applicants would also argue that the disease(s) being treated by Delisle are for tooth decay. He is not treating any upper respiratory tract infection. Tooth decay is not considered an upper respiratory illness.

Turning to the issue of obviousness double patenting, applicants note that U.S. Patent No. 5,985,271 does not disclose the treatment of *S. pneumoniae* or *H. influenza*, and 6,238,002 is directed to the treatment of Strep A infections.

Additionally, 10/067,979 has not yet been allowed, so a determination as to whether a terminal disclaimer is needed is premature.

The claims are now in condition for allowance. Please call the undersigned at (301) 603-9071 or at the cell phone number of (301) 346-8714 if you have any questions or comments. Thank you.

Respectfully submitted,

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